

TESTIMONY OF SHARRI VENNO, ENVIRONMENTAL PLANNER
HOULTON BAND OF MALISEET INDIANS

06/02/05, Augusta, Maine - Public Hearing on
Maine Toxics Rule

Good afternoon, my name is Sharri Venno, I work as an Environmental Planner for the Houlton Band of Maliseet Indians. As Chief Commander's testimony indicates we are concerned about a rule which currently fails to acknowledge our existence as an Indian Tribe and fails to take into account the cultural protections afforded by federal recognition of that status. This proposed rule also sets up a process for establishing site specific criteria that presents significant barriers to any effort to better protect our cultural integrity from the effects of toxics contamination.

Initial archaeologic work undertaken along the banks of the Meduxnekeag dates Maliseet presence at least as far back as 8,000 years. The availability of game, fish, plants and pure water for sweat lodges has played a substantial part in the historical culture and development of the Tribe. Ritual hunting and fishing and the use of local plant medicines is uniquely tribal in character.

When Congress legally recognized our status as an Indian Tribe in the 1980 Maine Indian Claims Settlement Act, they clearly intended to protect and preserve our ancient tribal culture and traditions. To quote from the associated Senate Committee Report, "Nothing in the settlement provides for acculturation, nor is it the intent of Congress to disturb the cultural

integrity of the Indian people of Maine. To the contrary, the Settlement offers protections against this result.,” for example through the acquisition of land by our Tribe on which to maintain and protect our way of life. By inference, this must include a sufficient quantity and quality of water to support and sustain the cultural life of our Tribe. Restated, nothing in the Settlement Act grants the State any power to impact or destroy the Tribe’s way of life. Maine state actions that allow pollution of tribal waters such that we can no longer preserve and protect our unique culture conflicts directly with the purposes of Congress. Whatever authority the State has over tribal lands stops at the point where tribal culture is threatened by state action.

With regard to this specific state action, adoption of a Toxics Rule, we suggest several steps toward ensuring consistency with the congressional intent of protecting tribal culture.

First, specifically name the Maliseet Tribe in this rule - as well as the other federally recognized Tribes in Maine - as affected parties with unique cultural uses that are impacted by toxic contaminants in Maine waters. This language would clearly demonstrate that the State acknowledges the existence of Tribes in Maine and our well-documented hunter-gatherer way of life.

Second, establish site specific toxics criteria on waters upstream from tribal resources that use EPA’s existing default consumption rate for “subsistence fishing.” Subsistence fishing is a cultural practice characteristic of riverine hunter-gatherer tribes. EPA’s subsistence

consumption rate is based on a number of well-documented studies, is obviously acceptable under the Clean Water Act and will greatly improve the proposed rule's protection of tribal culture.

Third, modify the proposed process for adopting new site specific criteria so it does not impede the use of better information regarding the impacts of toxics contamination on tribal culture. There are a number of studies through out the country developing environmental standards that protect the health and welfare of tribes when engaged in cultural activities that are underway or already completed. Given the existing language of the Toxics Rule, their results would not be taken into account in this process because it requires that all such studies be pre-approved.

Finally, site specific toxics criteria on waters upstream of tribal resources should not be developed on a permit by permit basis as is currently contemplated. All upstream activities will affect downstream tribal resources and should be examined comprehensively when establishing criteria. Further, having dealt with the permitting process over a number of years, we believe that addressing tribal concerns in this manner will be unnecessarily costly and time-consuming.

Thank you for your time and the opportunity to provide these comments.